

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

New claim 13 has been added. Applicant respectfully submits that the disclosure of Applicant's application provides support for the features of claim 13. For example at least Figures 1a-8 provide support for the features of claim 13.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-13 are now pending in this application.

Finality of Office Action

The Office Action Summary states that the Office Action is Non-final while page 5 of the Office Action states that the Office Action is Final. When contacted, the Examiner confirmed that the Office Action was indeed Non-final.

Rejection under 35 U.S.C. § 103

Claims 1-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,931,219 to Kull *et al.* (hereafter "Kull") in view of U.S. Patent No. 4,872,578 to Fuerschbach *et al.* (hereafter "Fuerschbach"). This rejection is respectfully traversed.

Kull discloses a plate heat exchanger 1 that includes a plurality of plates 2-8 stacked on top of the other. See Kull at col. 2, lines 51-52. However, as suggested by the Office on pages 2-3 of the Office Action, Kull does not disclose or suggest a heat exchanger having a plate-type design comprising, among other things, at least two adjacent heat exchanger plates and a base plate, wherein the base plate is in at least substantially flat contact with an adjacent outermost heat exchanger plate of the heat exchanger, wherein the base plate comprises a depression with a contour having a shape corresponding to one of the heat exchanger plates, as recited in claim 1. Claims 2-12 depend from claim 1.

Fuerschbach discloses a plate type heat exchanger 10 that includes a plurality of heat exchange plates 12, 12'. See Fuerschbach at col. 2, lines 8-11. A bottom plate 46 includes a

pair of oval depressions 48 and four circular depressions 50, with the bottom plate 46 being positioned beneath a bottom or first heat exchange plate 12 and annular base portions 18 of depressions 16 of the plate 12 being positioned upon upper surfaces of the bottom plate depressions 48. See Fuerschbach at col. 4, lines 29-32, 55-59.

However, Fuerschbach does not disclose or suggest that the depressions 48 of the bottom plate 46 have a contour with a shape corresponding to the heat exchange plate 12, as recited in claim 1. Fuerschbach only discloses that the depressions 16 of the plate 12 are positioned upon a surface of the depression 48 in the bottom plate 46, not that the depression has a contour with a shape that corresponds to the plate 12, as recited in claim 1. As shown in Figure 1 of Fuerschbach, the depression 48 has a contour that is significantly different in shape than the plate 12. For instance, the depression 48 has a contour formed by a single, long oval while the plate 12 has two circular depressions 16 that are much different in shape from the depression 48 of the bottom plate 46.

For at least the reasons discussed above, the combination of Kull and Fuerschbach does not disclose or suggest all of the features of claims 1-12. Reconsideration and withdrawal of this rejection is respectfully requested.

New Claim

New claim 13 has been added. Claim 13 depends from claim 1 and is allowable over the prior art for at least the reasons discussed above and for its respective additional recitations.

Claim 13 further recites “wherein the contour of the depression has a shape that matches a shape of an outer edge of a bottom surface of the one heat exchanger plate.” Kull does not disclose or suggest such a contour. The depression 48 of the bottom plate 46 of Fuerschbach does not have a contour with a shape that matches the shape of the outer edge of the bottom surface of the plate 12 of Fuerschbach. Therefore, the combination of Kull and Fuerschbach fails to disclose or suggest all of the features of claim 13.

CONCLUSION


Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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